

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CLERK OF COURT
OFFICE

AUG 15 2 05

TONY B. GASKINS,
PLAINTIFF

CIVIL ACTION

No. 05-10858-GAO

v.

UNMASS CORRECTIONAL
HEALTH SERVICES, ET AL.,
DEFENDANTS.

MOTION FOR APPOINTMENT OF COUNSEL

NOW COMES THE PLAINTIFF, TONY B. GASKINS,
MOVES THIS HONORABLE COURT PURSUANT TO
28 U.S.C. § 1915(d) FOR THE APPOINTMENT
OF COUNSEL IN THIS MATTER. THE PLAINTIFF
STATES THE FOLLOWING REASONS WHY HE
SHOULD BE ALLOWED COUNSEL.

1. PLAINTIFF CHALLENGES THE DEFENDANTS
AS BEING DELIBERATELY INDIFFERENT
TOWARDS HIS SERIOUS MEDICAL NEEDS WHEN
HE HAD SURGERY ON HIS RIGHT SHOULDER.

2. THIS COURT SHOULD CONSIDER "THE FACTUAL

-2-

COMPLEXITY OF THE CASE, THE ABILITY OF THE INDIGENT TO INVESTIGATE THE FACTS, THE EXISTENCE OF CONFLICTING TESTIMONY, THE ABILITY OF THE INDIGENT TO PRESENT HIS CLAIM AND THE COMPLEXITY OF THE LEGAL ISSUES." ABDULLAH V. GUNTER, 949 F.2d 1032, 1035 (8th Cir. 1991), cert. denied, 112 S.Ct. 1995 (1992). IT HAS ALSO BEEN DETERMINED THAT THE MOST IMPORTANT FACTOR IS WHETHER THE CASE APPEARS TO HAVE MERIT. SEE: COOPER V. A. LARGENTI, 877 F.2d 170, 173 (2d Cir. 1989). EACH OF THESE FACTORS ARE PREVALENT HERE AND WARRANTS APPOINTMENT OF COUNSEL.

3. THE COMPLEXITY OF THIS CASE IS BASED ON PLAINTIFF HAVING TO FACE A MEDICAL TRIBUNAL THAT WOULD REQUIRE PLAINTIFF SEEKING FUNDS TO RETAIN THE SERVICES OF A DOCTOR EXPERIENCED IN THE AREA OF ORTHOPAEDIC TO GIVE AN OPINION AS TO THE EXTENT OF PLAIN-

-3-

TIFF'S INJURY INCURRED FROM THE SURGERY.

4. PLAINTIFF IS ALSO IN A SEGREGATION UNIT AT THE TIME AND IS UNABLE TO PROPERLY INVESTIGATE THIS CASE AND PRESENT HIS CLAIMS THAT WOULD REQUIRE EXTENSIVE DISCOVERY. SEE TUCKER V. DICKEY, 613 F.Supp. 1124, 1133-1134 (1985) (NEED FOR DISCOVERY SUPPORTED APPOINTMENT OF COUNSEL); TARRON V. GRACE, 6 F.3d 147, 156 (1993) (HOLDING THE NEED FOR DISCOVERY SUPPORTS APPOINTMENT OF COUNSEL). MOREOVER, THE PLAINTIFF IS INDIGENT WITH MINIMUM LEGAL TRAINING — A FACTOR THAT SUPPORTS THE APPOINTMENT OF COUNSEL. SEE WHITENANT V. YUAM, 739 F.2d 160, 163 (4TH CIR. 1984).

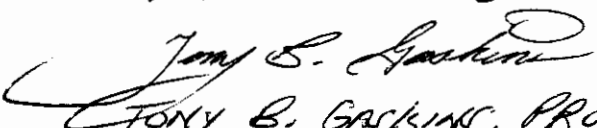
5. PLAINTIFF HAS REQUESTED A JURY TRIAL THAT REQUIRES MUCH GREATER

-4-

SKILL THAN THE PLAINTIFF HAS OR
CAN DEVELOP.

WHEREFORE, THE PLAINTIFF PRAYS
THIS MOTION IS ALLOWED.

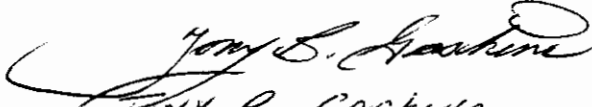
DATED: 8/11/05

RESPECTFULLY SUBMITTED,

TONY B. GASKINS, PROSE
MCI- CEDAR JUNCTION
P.O. Box 100
SOUTH WALPOLE, MA. 02071

CERTIFICATE OF SERVICE

I, TONY B. GASKINS, CERTIFY THAT I CAUSED
A COPY TO BE SERVED ON: JUDY T. MORRIS,
COUNSEL, LEGAL DIVISION, DEPARTMENT OF COR-
RECTION, 70 FRANKLIN STREET, SUITE 600,
BOSTON, MA. 02110-1300, BY FIRST CLASS MAIL,
POSTAGE PREPAID.

DATED: 8/11/05


TONY B. GASKINS

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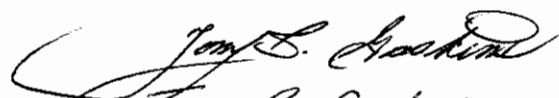
UMASS CORRECTIONAL
HEALTH SERVICES, ET AL.,
DEFENDANTS.

AFFIDAVIT OF TONY B. GASKINS

I, TONY B. GASKINS, HEREBY DEPOSE
AND STATE, THAT:

1. WHEN I SENT THE SUMMONS AND CIVIL
COMPLAINTS TO THE U.S. MARSHAL TO MAKE
SERVICE ON CARL SINGLETARY AND STANLEY
GALES, I ALSO HAD THE U.S. MARSHAL
SERVE THEM WITH A DISCOVERY REQUEST
FOR DOCUMENTS TOO.

SIGNED UNDER THE PAINS AND PENALTIES
OF PERJURY.


TONY B. GASKINS

MC1- CEDAR JUNCTION

P.O. Box 100

So. WALPOLE, MA, 02071

DATED: 8/8/05